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OUTLAW LABORATORY, LP

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

OUTLAW LABORATORY, LP a
Texas Limited Partnership,

Plaintiff,

vs.

EASTLINE ENTERPRISES INC., a
Texas Corporation, IHAK, INC., a
Texas Corporation, HNJ
ENTERPRISES, INC., a Texas
Corporation, DAHERI
ENTERPRISES, INC., a Texas
Corporation, STOP N GONE FOOD
STORE INC, a Texas Corporation,
CULLEN TEXACO, INC., a Texas
Corporation, IHU INC., a Texas
Corporation, SUKHANI
PETROLEUM, LLC, a Texas
Limited Liability Company,
DAWANI STORES, INC., a Texas
Corporation, BROADVISION, LLC,
a Texas Limited Liability Company,
GESSNER TANNER TEXACO,
INC., a Texas Corporation, ADICO
ENTERPRISES, INC., a Texas
Corporation, SAFA PROPERTY
INVESTMENT, INC, a Texas

CASE NO.

COMPLAINT FOR:

**1) FALSE ADVERTISING (Section
43(a)(1)(B) of the Lanham Act)**

[REQUEST FOR A JURY TRIAL]

1 Corporation, F & Z ENTERPRISES
2 INC., a Texas Corporation,
3 BELLFORT6920, LLC, a Texas
4 Limited Liability Company, and
5 DOES 1-100.

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Defendants.

1 Plaintiff Outlaw Laboratory, LP, a Texas limited partnership (“OLP” or
2 “Plaintiff”), by and through its undersigned attorneys, submits this Complaint against
3 defendants, EASTLINE ENTERPRISES INC., a Texas Corporation, IHAK, INC., a
4 Texas Corporation, HNJ ENTERPRISES, INC., a Texas Corporation, DAHERI
5 ENTERPRISES, INC., a Texas Corporation, STOP N GONE FOOD STORE INC, a
6 Texas Corporation, CULLEN TEXACO, INC., a Texas Corporation, IHU INC., a Texas
7 Corporation, SUKHANI PETROLEUM, LLC, a Texas Limited Liability Company,
8 DAWANI STORES, INC., a Texas Corporation, BROADVISION, LLC, a Texas
9 Limited Liability Company, GESSNER TANNER TEXACO, INC., a Texas
10 Corporation, ADICO ENTERPRISES, INC., a Texas Corporation, SAFA PROPERTY
11 INVESTMENT, INC, a Texas Corporation, F & Z ENTERPRISES INC., a Texas
12 Corporation, BELLFORT6920, LLC, a Texas Limited Liability Company, and DOES 1-
13 100, inclusive (collectively, the “Defendants”), and in support thereof avers as follows:

14 **INTRODUCTION**

15 1. Defendants are engaged in a scheme to distribute and sell “male
16 enhancement” pills containing undisclosed pharmaceuticals to the general public.
17 Specifically, Defendants advertise and offer for sale various sexual enhancement
18 supplements, including but not limited to, Rhino 7 Platinum 3000, Rhino 7 Platinum
19 5000, Rhino 8 Platinum 8000, Rhino Big Horn 3000, Rhino 12 Titanium 6000, Rhino 69
20 and Boss-Rhino Gold X-tra Strength (collectively, the “Rhino Products”). All of the
21 Rhino Products have been the subject of laboratory testing and public announcements by
22 the FDA, which found these products to contain hidden drug ingredients such as
23 sildenafil (a prescription drug), desmethyl carbodenafil (an analogue of sildenafil),
24 dapoxetine (an unapproved anti-depressant drug) and tadalafil (a prescription drug),
25 among other dangerous undisclosed ingredients.

26 2. The Rhino Products are distributed by unknown suppliers (the “Supplier
27 Defendants”) through Shell-branded convenience stores which are named herein as co-
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1 defendants (the “Retail Defendants”). Plaintiff has sent letters to each of the Retail
2 Defendants making demands that they cease and desist from the illicit activity.

3 3. The Retail Defendants profit from the sale of the Rhino Products by
4 disseminating false statements including that the Rhino Products are “all natural,”
5 contain “no harmful synthetic chemicals,” “no prescription necessary,” and have limited
6 side effects. Aside from these patently false statements, Defendants have failed to
7 disclose the true nature of the Rhino Products to their customers, even though they are
8 aware of the dangerous secret ingredients.

9 4. Plaintiff is the manufacturer of competing products called “TriSteel” and
10 “TriSteel 8hour,” which are DSHEA-compliant male enhancement products made in the
11 USA and distributed for sale in all 50 US States.

12 5. The proliferation of mislabeled male enhancement pills has grown in the
13 shadows of intermittent enforcement of nutritional supplement laws. In this regard, the
14 FDA has issued several public notices regarding the use of sildenafil in over the counter
15 “male enhancement” supplements, but has only taken action on a handful of cases. The
16 Supplier Defendants and the Retail Defendants have taken full advantage of this
17 regulatory landscape, making significant profits selling dangerous products while openly
18 engaging in illicit activity.

19 6. Thus, Plaintiff’s only recourse is a civil action to protect the commercial
20 interests recognized by the Lanham Act and to expose the scheme detailed herein. As
21 such, Defendants have knowingly and materially participated in a false and misleading
22 advertising campaign to promote and sell the Rhino Products, giving consumers the false
23 impression that these products are safe when in reality, Defendants are well aware that
24 the Rhino Products contain hidden drug ingredients.

25 7. Defendants’ false and misleading statements and advertising pose extreme
26 health risks to consumers in at least two ways. First, Defendants mislead consumers into
27 believing that the advice and authorization of a licensed medical professional is not
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1 required to mitigate or avoid the potentially life-threatening side effects, drug interactions
2 and contraindications of the sildenafil and other drug ingredients hidden in the Rhino
3 Products. Second, by failing to inform consumers that the Rhino Products contain
4 sildenafil, consumers who know that their medical history and drug prescriptions make
5 sildenafil consumption dangerous may nevertheless consume the Rhino Products because
6 they are not made aware they contain sildenafil.

7 8. Defendants have knowingly and materially participated in false and
8 misleading marketing, advertising, dissemination and labeling to promote and sell the
9 Rhino Products, giving consumers the false impression that these products are safe and
10 natural dietary supplements when in reality Defendants know that the Rhino Products
11 contain synthetic prescription drug ingredients that pose serious health dangers when
12 taken without the supervision of a licensed medical professional.

13 9. Such false and misleading marketing and advertising is dangerous to
14 individual consumers and harmful to the dietary supplement industry as a whole.
15 Defendants have created an illegitimate marketplace of consumers seeking to enhance
16 their sexual performance but who are not informed, or who are misinformed, of the
17 serious dangers of using Defendants' Rhino Products. Consumers of the Rhino Products
18 have little or no incentive to use natural, legitimate and safe sexual performance Rhino
19 Products, such as Plaintiff's TriSteel or TriSteel 8hour, until they are harmed or
20 Defendants' Rhino Products are taken off of the shelves. Defendants' continuing false,
21 misleading, and deceptive practices have violated the Lanham Act and have unjustly
22 enriched Defendants at the expense of Plaintiff, and have harmed Plaintiff's commercial
23 interests, including but not limited to, loss of revenue, disparagement and loss of
24 goodwill.

25 10. Among other things, this action seeks to enjoin Defendants from the
26 marketing and sale of any and all of the Rhino Products, disgorgement of Defendants'

1 profits, treble damages, punitive damages and attorneys' fees provided by the Lanham
2 Act.

3 11. Among other things, this action seeks to enjoin Defendants from the
4 marketing and sale of any and all of the Rhino Products, and pursue the full range of
5 damages available to it under

6 **JURISDICTION AND VENUE**

7 12. This Court has personal jurisdiction over Defendants because they have,
8 directly or through their intermediaries (including manufacturers, distributors, retailers,
9 and others), developed, licensed, manufactured, shipped, distributed, offered for sale,
10 sold, and advertised their products in the United States, the State of Texas, and this
11 county, including but not limited to, the Rhino Products. Defendants have purposefully
12 and voluntarily placed these products into the stream of commerce with the expectation
13 that they will be purchased in this district.

14 13. Venue is proper in this judicial district because a substantial amount of the
15 events described occurred in this district.

16 **PARTIES**

17 14. Plaintiff Outlaw Laboratory, LP is a Texas limited partnership organized
18 under the laws of the State of Texas.

19 15. Upon information and belief, defendant EASTLINE ENTERPRISES INC is
20 a Texas Corporation, which lists its Registered Agent as MUBASHIR KHAN at 1906
21 MAGNOLIA CREST, SUGAR LAND, TX 77478.

22 16. Upon information and belief, defendant IHAK, INC. is a Texas Corporation,
23 which lists its Registered Agent as HAKAKM A KHALEQ at 10611 HORSESHOE
24 BEND, HOUSTON, TX 77064.

25 17. Upon information and belief, defendant HNJ ENTERPRISES, INC is a
26 Texas Corporation, which lists as its Registered Agent as JEROLD JOHNSON at 10700
27 S MAIN ST STE A, HOUSTON, TX 77025.

1 18. Upon information and belief, defendant DAHERI ENTERPRISES, INC. is a
2 Texas Corporation which lists its Registered Agent as MOHAMMED SIDDIQUE
3 DAHERI at 12703 VETERANS MEMORIAL #105, HOUSTON, TX 77014.

4 19. Upon information and belief, defendant STOP N GONE FOOD STORE
5 INC, is a Texas Corporation, which lists its Registered Agent as TIEN VAN NGUYEN
6 at 12850 SCARSDALE, HOUSTON, TX 77089.

7 20. Upon information and belief, defendant CULLEN TEXACO, INC., is a
8 Texas Corporation, which lists its Registered Agent as NICK CHALLA at 6310
9 MODESTO, HOUSTON, TX 77083.

10 21. Upon information and belief, defendant IHU INC. is a Texas Corporation,
11 which lists its Registered Agent as IRFAN IBRAHIM at 9894 BISSONNET ST STE
12 400, HOUSTON, TX 77036.

13 22. Upon information and belief, defendant SUKHANI PETROLEUM, LLC., is
14 a Texas Limited Liability Company, which lists its Registered Agent as MUKESH
15 MANSUKHANI at 8610 AIRPORT BLVD, HOUSTON, TX 77061.

16 23. Upon information and belief, defendant DAWANI STORES, INC., is a
17 Texas Corporation, which lists its Registered Agent as AMIR DAWANI at 14243
18 ASHMORE REEF COURT, SUGAR LAND, TX 77498.

19 24. Upon information and belief, defendant BROADVISION, LLC, is a Texas
20 Limited Liability Company, which lists its Registered Agent as ARIBAHEN PATEL at
21 5514 PARKSTONE COURT, SUGAR LAND, TX 77479.

22 25. Upon information and belief, defendant GESSNER TANNER TEXACO,
23 INC. is a Texas Corporation which lists its Registered Agent as KARIM K ALI at 5615
24 RICHMOND AVE STE 230, HOUSTON, TX 77057.

25 26. Upon information and belief, defendant ADICO ENTERPRISES INC. is a
26 Texas Corporation which lists its Registered Agent as MUSA A. ADI at 10106
27 KLECKLEY, HOUSTON, TX 77075.
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1 27. Upon information and belief, defendant SAFA PROPERTY
2 INVESTMENT, INC is a Texas Corporation, which lists its Registered Agent as ALI
3 BASHTAWI at 10521 GULF FWY, HOUSTON, TX 77034.

4 28. Upon information and belief, defendant F & Z ENTERPRISES INC. is a
5 Texas Corporation, which lists its Registered Agent as SAIYAD ALI at 6690 W.
6 AIRPORT BLVD, HOUSTON, TX 77035.

7 29. Upon information and belief, defendant BELLFORT6920, LLC is an Texas
8 Limited Liability Company, which lists its Registered Agent as DEEDAR ALI at 3803
9 ORCHARD LINKS DR, RICHMOND, TX 77407.

10 30. Plaintiff is ignorant of the true names and capacities of defendants sued
11 herein as Does 1- 10, inclusive, and therefore sued these defendants by such fictitious
12 names. Plaintiff will amend this Complaint to allege their true names and capacities
13 when ascertained. Plaintiff is informed and believes and thereon alleges that each of
14 these fictitiously named defendants is responsible in some manner for the occurrences
15 herein alleged, and that Plaintiff's injuries as herein alleged were proximately caused by
16 the aforementioned defendants.

17 **FACTUAL ALLEGATIONS**

18 31. According to a recent public warning by the FDA, there is a growing trend
19 in the supplement industry of mislabeling "dietary supplements" that contain potentially
20 harmful hidden drugs and chemicals. Unscrupulous supplement manufacturers and
21 retailers market and advertise these products as enhancing sexual performance, weight
22 loss, and bodybuilding, and misrepresent their products as being "all natural." Contrary
23 to their representations, these purported "dietary supplements" actually contain
24 potentially harmful hidden ingredients and drugs, and require a prescription from a
25 medical doctor for proper use. The FDA has approved sildenafil for treatment of erectile
26 dysfunction. However, because of known side effects, drug interactions and
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1 contraindications, the FDA has deemed sildenafil to be a prescription drug that can only
2 be administered under the supervision of a medical professional.

3 32. The serious side effects of sildenafil include, for example, priapism (i.e.,
4 prolonged penile erections leading to tissue death and potential permanent erectile
5 dysfunction), severe hypotension (i.e., low blood pressure), myocardial infarction (i.e.,
6 heart attack), ventricular arrhythmias, stroke, increased intraocular pressure (i.e.,
7 increased eye fluid pressure), anterior optic neuropathy (i.e., permanent optic nerve
8 damage), blurred vision, sudden hearing loss, and dizziness.

9 33. The serious negative drug interactions of sildenafil include, for example, (i)
10 interacting with alkyl nitrites and alpha-1 blockers to cause angina and life-threatening
11 hypotension, (ii) interacting with protease inhibitors to increase the incidence and
12 severity of side effects of sildenafil alone, and (iii) interacting with erythromycin and
13 cimetidine to cause prolonged plasma half-life levels.

14 34. In addition to these risks, contraindications of sildenafil include underlying
15 cardiovascular risk factors (such as recent heart surgery, stroke or heart attack) since
16 consumption of sildenafil by individuals with these conditions can greatly increase the
17 risk of heart attack.

18 35. Because of these dangerous side effects, drug interactions and
19 contraindications, the advice and authorization of appropriate licensed medical
20 professionals is absolutely crucial for the safe consumption of sildenafil. Without such
21 safeguards, the consequences can be dire; the sale of mislabeled sildenafil in similar
22 circumstances has led to multiple deaths reported in the media.

23 **Defendants' Scheme**

24 36. The Supplier Defendants are wholesale suppliers and distributors of various
25 sexual enhancement supplements, which are often imported from China, rarely disclose
26 any manufacturer information on their packaging and contain hidden drug ingredients.
27 The Rhino Products are generally sold in single-pill form. The Supplier Defendants
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1 distribute the Rhino Products through a network of Retail Defendants, detailed herein,
2 who own and operate independent businesses selling the Rhino Products, disseminate
3 false claims about the Rhino Products, and profit from the sale of dangerous products to
4 consumers at a large markup on each pill.

5 37. The Rhino Products are high-margin products and as such are situated at or
6 near the checkout counter. The Rhino Products are all subject to FDA public
7 announcements regarding their illicit contents; however, the Retail Defendants still
8 participate in their sale, due to their profitability.

9 **Defendants and The Rhino Products**

10 38. Defendants market, advertise, disseminate and offer for sale various sexual
11 enhancement supplements, including but not limited to, Rhino 7 Platinum 3000, Rhino 7
12 Platinum 5000, Rhino 8 Platinum 8000, Rhino Big Horn 3000, Rhino 12 Titanium 6000,
13 Rhino 69 and Boss-Rhino Gold X-tra Strength (the “Rhino Products”).

14 39. Defendants make numerous false and misleading representations regarding
15 the Rhino Products. For example, and without limitation, Defendants mislabel the Rhino
16 Products as “all natural” “dietary supplements,” and advertise and promote such products
17 as containing “no chemicals,” “all natural herbal formula,” and “no prescription
18 necessary,” among other misrepresentations.

19 40. Contrary to Defendants’ representations, recent laboratory analyses by the
20 FDA and otherwise have confirmed that the Rhino Products unlawfully contain hidden
21 drug ingredients, such as sildenafil. Sildenafil is the active ingredient in the FDA-
22 approved prescription drug Viagra, which is used to treat erectile dysfunction. Thus, the
23 Rhino Products are not “dietary supplements” as a matter of law, and Defendants’
24 representations to the contrary are false and misleading for this reason alone.

25 41. Moreover, Defendants fail to disclose that the Rhino Products contain
26 prescription drug ingredients, such as sildenafil. The sale of products containing hidden
27 drug ingredients (without requiring a prescription and without informing consumers of
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1 the health and safety risks of these drugs) is unlawful and seriously endangers
2 consumers. In this regard, Defendants also fail to disclose any of the adverse health
3 consequences of taking PDE-5 Inhibitors, such as sildenafil, tadalafil and vardenafil.
4 According to the FDA, these undisclosed ingredients may interact with nitrates found in
5 some prescription drugs such as nitroglycerin and may lower blood pressure to dangerous
6 levels, among other negative side effects.

7 42. Defendants' false and misleading advertising is harmful to the dietary
8 supplement industry as a whole and to individual consumers. Defendants have created
9 an illegitimate marketplace of consumers seeking to enhance their sexual performance,
10 but who are not informed (or misinformed) of the serious dangers of using the Rhino
11 Products.

12 43. Consequently, consumers of the Rhino Products have little or no incentive to
13 use other sexual performance Rhino Products, such as TriSteel, until they are injured or
14 the Rhino Products are taken off the shelves.

15 **Defendants' False Statements Regarding The Rhino Products**

16 44. Upon information and belief, EASTLINE ENTERPRISES INC owns and
17 operates the retail location at 707 WAYSIDE DR., HOUSTON, TEXAS 77011, which
18 advertises and offers for sale various sexual enhancement supplements, including Rhino
19 7 Platinum 5000, Super Panther 7K, Triple Green.

20 45. Upon information and belief, IHAK, INC. owns and operates the retail
21 location at 9503 Westheimer Rd., Houston, Texas 77063, which advertises and offers for
22 sale various sexual enhancement supplements, including Rhino 7 Platinum 5000, Mamba
23 is Hero, Black Panther and Rhino 7 Platinum 3000.

24 46. Upon information and belief, HNJ ENTERPRISES, INC owns and operates
25 the retail location at 6601 Southwest Frwy, Houston, Texas 77074, which advertises and
26 offers for sale various sexual enhancement supplements, including Rhino 7 Platinum
27 5000, Super Panther 7K and Triple Green.
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47. Upon information and belief, DAHERI ENTERPRISES, INC. owns and operates the retail location at 17049 KUYKENDAHL RD., HOUSTON, TEXAS 77068, which advertises and offers for sale Black Mamba 2 Premium, Triple Green and Rhino 7 Platinum 3000.

48. Upon information and belief, STOP N GONE FOOD STORE INC owns and operates the retail location at 6275 W AIRPORT BLVD., HOUSTON, TEXAS 77035, which advertises and offers for sale various sexual enhancement supplements, including Triple Green, CONTROL All Natural Sexual Enhancement, Super Panther 7K and Rhino 7 Platinum 3000.

49. Upon information and belief, CULLEN TEXACO, INC. owns and operates the retail location at 7407 CULLEN BLVD., HOUSTON, TEXAS 77021, which advertises and offers for sale various sexual enhancement supplements, including Rhino 5 1500 and Rhino 7 Platinum 5000.

50. Upon information and belief, IHU INC. owns and operates the retail location at 7025 S LOOP E, HOUSTON, TEXAS 77087, which advertises and offers for sale various sexual enhancement supplements, including Rhino 7 Platinum 5000, Super Panther 7K and CONTROL All Natural Sexual Enhancement.

51. Upon information and belief, SUKHANI PETROLEUM, LLC owns and operates the retail location at 8610 AIRPORT BLVD., HOUSTON, TEXAS 77061, which advertises and offers for sale various sexual enhancement supplements, including Super Panther 7K, Rhino 7 Platinum 3000, Rhino 7 Platinum 5000, Triple MiracleZen Extreme 1750 mg, Libigrow XXX Treme, Stiff Nights and Mamba is Hero.

52. Upon information and belief, DAWANI STORES, INC., owns and operates the retail location at 13350 ALMEDA RD., HOUSTON, TEXAS 77045, which advertises and offers for sale various sexual enhancement supplements, including Mamba is Hero, Triple Green, Black Mamba Premium, Rhino 11 Platinum 11000, Rhino 7

1 Platinum 5000, Stiff Nights, Libigrow XXX Treme and CONTROL All Natural Sexual
2 Enhancement.

3 53. Upon information and belief, BROADVISION, LLC owns and operates the
4 retail location at 10707 W. LITTLE YORK RD., HOUSTON, TEXAS 77041, which
5 advertises and offers for sale various sexual enhancement supplements, including Rhino
6 7 Platinum 5000, CONTROL All Natural Sexual Enhancement, Triple Green, Stiff
7 Nights and Libigrow XXX Treme.

8 54. On information and belief, GESSNER TANNER TEXACO, INC., operates
9 the retail location at 5701 GESSNER DR., HOUSTON, TEXAS 77041, which advertises
10 and offers for sale various sexual enhancement supplements, including Rhino 7 Platinum
11 3000, Triple Green and Super Panther 7K.

12 55. Upon information and belief, ADICO ENTERPRISES INC. operates the
13 retail location at 9802 GULF FWY., HOUSTON, TEXAS 77034 which advertises and
14 offers for sale various sexual enhancement supplements, including Rhino 7 Platinum
15 3000 and Rhino 7 Platinum 5000.

16 56. Upon information and belief, SAFA PROPERTY INVESTMENT, INC
17 owns and operates the retail location at 10521 GULF FWY., HOUSTON, TEXAS
18 77034, which advertises and offers for sale various sexual enhancement supplements,
19 including Rhino 7 Platinum 5000, FX3000 and Super Panther 7K.

20 57. Upon information and belief, F & Z ENTERPRISES INC. owns and
21 operates the retail location at 14760 WALLISVILLE RD., HOUSTON, TEXAS 77049,
22 which advertises and offers for sale various sexual enhancement supplements, including
23 Super Panther 7K, Rhino 7 Platinum 3000, Triple Green and Mamba is Hero.

24 58. Upon information and belief, BELLFORT6920, LLC owns and operates the
25 retail location at 6920 BELLFORT ST., HOUSTON, TEXAS 77087, which advertises
26 and offers for sale various sexual enhancement supplements, including Super Panther 7K
27 and Rhino 7 Platinum 5000.
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Plaintiff's Dietary Supplements: TriSteel and TriSteel 8hour

59. Plaintiff OLP is a manufacturer of DSHEA-compliant dietary supplements. Plaintiff manufactures and offers for sale TriSteel and TriSteel 8hour, male sexual performance enhancement supplements that promote increased sexual desire and stamina. The ingredients in TriSteel are Epimedium Extract (leaves), Yohimbe Extract (8mg Yohimbine Alkaloids), Xanthoparmelia Scarbrosa Extract (Lichen), Gamma Amino Butyric Acid (GABA), L-Arginine, Gelatin, Cellulose, Magnesium Stearate and Silica. Plaintiff sells TriSteel and TriSteel 8hour in all 50 states through its website, as well as through many other online and storefront retail locations.

60. Natural products that work like TriSteel and TriSteel 8hour are significantly more expensive to manufacture than the Illicit Products. Thus, Plaintiff is at a significant commercial disadvantage when Defendants sell synthetic drugs that are much more inexpensive to produce overseas, and falsely label them as being natural. Moreover, the simple fact that the Illicit Products are sold "over-the-counter" gives the impression to consumers that the Illicit Products are safe to consume. Defendants make significant profits by disseminating false statements to the consuming public that would instead purchase Plaintiffs directly competing products if Defendants were truthful about the nature and origin of the Illicit Products.

CAUSE OF ACTION

(False Advertising in Violation of Section 43(a)(1)(B) of the Lanham Act)

61. Plaintiff incorporates the allegations contained in the foregoing paragraphs as though fully set forth herein in their entirety.

62. Defendants advertise and offer for sale various sexual enhancement supplements, including but not limited to, the Rhino Products.

63. Defendants make numerous false and misleading representations regarding the Rhino Products. For example, and without limitation, Defendants mislabel the Rhino Products as “all natural” “dietary supplements” and advertise and promote such products as containing “no chemicals,” “NATURAL FORMULA,” and “no prescription necessary,” among other misrepresentations.

64. Contrary to Defendants’ representations, recent laboratory analyses by the FDA and otherwise have confirmed that the Rhino Products unlawfully contain hidden drug ingredients, such as sildenafil. Sildenafil is the active ingredient in the FDA-approved prescription drug Viagra, which is used to treat erectile dysfunction. Thus, the Rhino Products are not “dietary supplements” as a matter of law, and Defendants’ representations to the contrary are false and misleading for this reason alone.

65. Moreover, Defendants fail to disclose that the Rhino Products contain prescription drug ingredients, such as sildenafil. The sale of products containing hidden drug ingredients (without requiring a prescription and without informing consumers of the health and safety risks of these drugs) is unlawful and seriously endangers consumers. In this regard, Defendants also fail to disclose any of the adverse health consequences of taking PDE-5 Inhibitors, such as sildenafil, tadalafil and vardenafil. According to the FDA, these undisclosed ingredients may interact with nitrates found in some prescription drugs such as nitroglycerin and may lower blood pressure to dangerous levels, among other negative side effects.

66. Defendants have used, promoted, and disseminated the false advertising and have thus materially participated in a false and misleading advertising campaign to promote and sell their Rhino Products, giving consumers the false impression that these products are “all-natural” “dietary supplements,” which do not require a prescription. In reality, Defendants knew, or should have known, that their Rhino Products contain hidden drug ingredients and actually require a proper prescription from a medical doctor.

1 67. The use of such falsely advertised products has the tendency to deceive a
2 substantial segment of the public and consumers, including those in Texas, into believing
3 that they are purchasing a product with drastically different characteristics.

4 68. The deception is material because it is likely to influence a consumer's
5 purchasing decisions, especially if the consumer is concerned about the consequences of
6 taking certain prescription drugs without the supervision of a medical doctor.

7 69. Defendants have introduced their false and misleading statements into
8 interstate commerce via marketing and advertising at their stores and shipment of their
9 products containing false and misleading advertising into interstate commerce.

10 70. Plaintiff has been injured as a result of Defendants' false and misleading
11 statements. Specifically, Defendants' false and misleading advertising concerning the
12 Enhancement Products has negatively impacted Plaintiff's sales of TriSteel and TriSteel
13 8hour because both products are intended for sexual performance enhancement and target
14 the same consumers. Thus, Plaintiff has suffered both an ascertainable economic loss of
15 money and reputational injury by the diversion of business from Plaintiff to Defendants
16 and the loss of goodwill in Plaintiff's products. The ubiquity of the Enhancement
17 Products, their relatively low cost to manufacture in comparison to DSHEA-compliant
18 products (like TriSteel and TriSteel 8hour), and their dramatic pharmacologic effects
19 makes it so that legitimate sexual performance enhancement products, such as TriSteel or
20 TriSteel 8hour, struggle to obtain market share. Moreover, Defendants conduct has
21 created reputational damage in that Defendants' misconduct damages the marketplace as
22 a whole and has the tendency to disparage Plaintiff's products and goodwill.

23 71. Defendants' actions, as described above, constitute false and misleading
24 descriptions and misrepresentations of fact in commerce that, in commercial advertising
25 and promotion, misrepresent the nature, characteristics, and qualities of their products in
26 violation of Section 43(a)(1)(B) of the Lanham Act.

PRAYER

Wherefore, Plaintiff prays for judgment against Defendants as follows:

1. For preliminary and permanent injunctive relief enjoining Defendant from falsely advertising any of the Rhino Products
2. For an award of compensatory damages to be proven at trial in accordance with 15 U.S.C. § 1117;
3. For an award of any and all of Defendant's profits arising from the foregoing acts in accordance with 15 U.S.C. § 1117 and other applicable laws;
4. For restitution of Defendant's ill-gotten gains;
5. For treble damages in accordance with 15 U.S.C. § 1117;
6. For punitive damages;
7. For costs and attorneys' fees; and
8. Any other relief the Court may deem appropriate.

DATED: August 6, 2018

LAW OFFICE OF ADAM C. THIESSEN

By: _____


Adam C. Thiessen
OUTLAW LABORATORY, LP

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury.

DATED: August 6, 2018

LAW OFFICE OF ADAM C. THIESSEN

By: Adam Thiessen
Adam C. Thiessen
OUTLAW LABORATORY, LP